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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/923,645
Filing Date: August 07, 2001
Appellant(s): ARGASINSKI, HENRY E.

Michael Malinzak
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on January 03, 2007
appealing from the Office action mailed May 3, 2006.

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REAL PARTY IN INTEREST

A statement identifying the real party in interest is contained in the brief.

(RELATED APPEALS AND INTERFERENCES)

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief..

STATUS OF THE CLAIMS

The statement of the status of the claims contained in the brief is correct.

STATUS OF AMENDMENT

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

SUMMARY OF INVENTION

The summary of invention contained in the brief is correct.

ISSUES

The appellant's statement of the issues in the brief is correct.

GROUND OF REJECTION

Claims 2-9,11-13,15-17, and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Ferreira U.S. Pub. No. 2001/0034661.

CLAIMS APPEALED

The copy of the appealed claims contained in the appendix pages 20-24 is correct.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-9, 11-13 and 15-17 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Ferreira US PUB No. (20010034661)

As per claim 21, Ferreira teaches a method comprising:

Transposing an actual image of group of adjacent storefront along a city block as a navigable image within an internet site (user-navigable digitized image of actual location is provided to a user ¶ 0014-0015, see figs. 4-5); allowing a user to scroll

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a point of view of said navigable image left or right within said internet site by moving said point of view of said navigable image in a direction along said city block while maintaining said point of view directed toward said group of adjacent storefronts (a user interface may be provided by the virtual city application of the present invention, a user interface including a user-navigable virtual representation of an actual location, such as a city is provided. The virtual representation may take the form of digitized images of the actual location that may be spliced together to allow navigation. For example, a user may navigate from one adjacent city block to another by selecting a horizon or any other suitable element of the display, such as icons. Upon selection of a storefront, the user may be directed to a virtual representation of the interior of the store in which the user may navigate and view actual items for sale as though he or she were in a real store ¶ 0 014-0015; ¶ 0071-0075 and ¶ 0101- Page 5 0102, see figs. 4-5]; and

providing customer selectable links within said navigable image [selected links provide more information on the item of interest ¶ 0015-0016 and ¶ 0057-0058].

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As per claims 22 and 23, Ferreira teaches a method, comprising: scrolling images of an actual location as navigable image on a website (¶ 0014-0015; ¶ 0056-0058 and 4 0101-0102, see figs. 4-5); navigating said navigable image in a left or right manner by communication commands from a remote computer to a server hosting said website (users 122 access data server 114 through network 120 450. See fig. 2; 40071-0072 and 4 0101- 0102) that moves a point of view of said navigable image in a direction along actual store window displays while maintaining said point of view directed toward said actual store window displays to give a viewer an impression of walking down a street or strolling through a mall while viewing said actual store window displays (a user interface may be provided by the virtual city application of the present invention. A user interface including a user-navigable virtual representation of an actual location, such as a city is provided. The virtual representation may take the form of digitized images of the actual location that may be spliced together to allow navigation. For example, a user may navigate from one adjacent city block to another by selecting a horizon or any other suitable element of the display, such as icons. Upon selection of a storefront, the user may be directed to a virtual representation of the interior of the store in which the user may navigate and view actual items for sale as

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though he or she were in a real store (Abstract; ¶ 0014-0015; ¶ 0071-0075 and ¶ 0101-0102, see figs. 4-5].

As per claim 2, Ferreira teaches the method of claim 21, further comprising the steps of: transposing an actual image of a interior of a particular retailer of said group of adjacent storefronts as an alternative navigable image within said internet site [user-navigable digitized image Of actual location is provided to a user ¶ 0014-0015 and ¶ 0056-0058, see fig. 4]; and providing customer selectable links within said alternative navigable image for providing detailed information of a said particular retailer [¶ 0014-0015 and ¶ 0056-0058, see figs. 4-5].

As per claim 3, Ferreira teaches the method of claim 21, further comprising the steps of: providing retailer information to a remote customer of claim navigable image for providing detailed information of particular goods of a particular retailer [¶ 0056-0058, see fig. 4].

As per claim 4, Ferreira teaches the method of claim 1, further comprising the steps of: providing customer selectable links within said alternative navigable image for providing detailed

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information of particular goods of said particular retailer [¶ 0056-0057, see fig. 4].

As per claim 5, Ferreira teaches the method of claim 21, further comprising the steps of: wherein said group of adjacent storefronts is a downtown area of a community [¶ 0056-0058, see fig. 4].

As per claim 6, Ferreira teaches the method of claim 21, further comprising the steps of: wherein said group of adjacent storefronts is a shopping center [¶ 0056-0058, see fig. 4].

As per claim 7, Ferreira teaches the method of claim 21, further comprising the steps of: wherein said group of adjacent storefronts is a strip mall [¶ 0056-0058, see fig. 4].

As per claim 8, Ferreira teaches the method of claim 21, further comprising the steps of: providing purchasing interface whereby the remote customer may arrange for remote purchase of one of goods and services [¶ 0045 and ¶ 0056].

As per claim 9, Ferreira teaches the method of claim 2, further comprising providing a customer perspective of said alternative

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navigable image and allowing a customer to virtually walk through said interior of said particular retailer of said retail environment (see figs. 4-5 and 16. ¶ 0014-0015; ¶ 0071-0075; ¶093 and 0101-0102].

As per claim ii and 15, Ferreira teaches the invention, further comprising transposing actual images of said at least one storefront of said retail environment as said navigable image [user-navigable digitized image of actual location is provided to a user ¶ 0014-0015; ¶ 0071-0075; ¶ 093 and 0101-0102].

As per claim 12-13 and 16-17, Ferreira teaches the invention, wherein said links provide detail information for goods, services or a business including purchase for goods or services [¶ 0045 and ¶0056].

Response to Arguments

The appellant's arguments raised in the Appeal Brief have been considered but are not deemed persuasive.

Regarding Claim 2-9,11-13,15-17, and 21-23:

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In the last complete paragraph on page 7 of the Appeal Brief, the Appellants argue that "The Ferreira reference does not teach or suggest scrolling a point of view of a navigable image left or right within an internet site by moving the point of view in a direction along a city block while maintaining the point of view directed toward a group of adjacent storefronts of the city block. Rather, Ferreira discloses simple rotational movement of a camera around a stationary point." (Page 7, last paragraph to page 8 line 1).

Appellant argues in section A page 8 "to the extent the utility application includes new matter not disclosed in the provisional application, Appellant pre-dates the new matter."

Examiner respectfully disagrees with appellant's assessment of the provisional application. Appellant did not point out clearly what he considers as a new matter in section A of his arguments. The appellant's arguments are vague and ambiguous. Nevertheless, the examiner has made his best attempt at replying to the arguments. The Examiner contends that the provisional application shows all of the positively claimed limitations and thus no subject matter not disclosed in the provisional application has been used. Specifically, substantial

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limitations of the independent claims are unmistakably disclosed in the provisional application. For example, the provisional application is entitled "A VIRTUAL REPRESENTATION OF A REAL CITY" page 1. The provisional application further states, "[t]he invention is a localized, city-by-city navigation system that uses digital imagery and sound to recreate in exacting detail a virtual reality simulacrum of each real world city." Page 1, 1st paragraph. Furthermore, the provisional application explicitly discloses, "[i]n the preferred embodiments of the invention, every VirtuaCity will be a digital replica of a real-world city, painstakingly reproduced onto the Internet for everyone-both in that community and around the world- to explore, browse, and mingle in." (Page 1, second paragraph. See also fig. 1 and 2). Additionally, the provisional application teaches, "[w]eb-surfers will be able to use their mouse (or the arrows on their keyboard) to move the camera around. Simply clicking on the image and holding down either the left or right mouse button will alter the camera's perspective and create the appearance of movement. Camera functionality will include: pan left, pan right, pan up, pan down, or any combination thereof, and zoom in and out." Page 5, 2nd paragraph. Therefore, it should be clear that not only does the provisional application provide sufficient basis for rejecting the independent claims, it also

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provides ample unambiguous and clear evidence for rejection of all appealed claims. It is clear that the provisional application teaches the foundation of what is included in US. PUB. Number 2001/0034661 of Ferreira such navigating an image and moving it sideways or up and down or any combination thereof, and zooming. Consequently, the Examiner maintains that the Declaration received on January 24, 2005 under 37 CFR 1.131 is ineffective to overcome the Ferreira reference (US. Pat. PUB. No. 2001/0034661) since the effective date of Ferreira is February 14, 2000 according to the provisional application No. 60/182282.

In response to the appellant's arguments that Ferreira does not teach or suggest scrolling a point of view of a navigable image left or right within an internet site by moving the point of view in a direction along a city block while maintaining the point of view directed toward a group of adjacent storefronts of the city block (repeated in sections B, C and D; Page 9, first paragraph, page 12 last paragraph, page 14 second paragraph and page 16 first paragraph), the examiner maintains that Ferreira and its provisional application irrefutably establish the contrary. As was previously stated, Ferreira teaches that "every VirtuaCity will be a digital replica of a real-world

city, painstakingly reproduced onto the Internet for everyone- both in that community and around the world- to explore, browse, and mingle in." (*emphasis added*, Page 1, second paragraph. See also fig. 1 and 2). This includes clicking on an image and holding down either the left or right mouse button that alters the camera's perspective and create appearance of movement (*emphasis added*). "The perspective of the camera will appear to move down the street in a continuous fashion and the "street horizon" hyperlinks will become unnecessary. Cars will move down the street, and so will pedestrians." (Page 31, first paragraph of the provisional application. See also paragraph 0080 of the utility application). Therefore, it is clearly evident that the movement of the camera is not one that is on a rotation upon a single axis. Rather, moving and mingling amongst the community and pedestrians can only occur in accordance with appellant's claimed limitations.

Furthermore, the examiner would like to clarify that Appellants argument of "allowing a user to scroll a point of view of said navigable image left or right within said internet site by moving said point of view of said navigable image in a direction along said city block " is based on appellant's drawing of Fig. 2 navigational button 41 which shows "GO LEFT 1

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BLOCK" AND "GO RIGHT 1 BLOCK". In essence, when a consumer clicks on "GO LEFT 1 BLOCK" of button 41 via a keyboard or a mouse, it will move one block left at a point of view of the consumer as he navigates the site (see paragraph 15 and 17 of the Appellant's specification). In contrast, Ferreira teaches a more advanced technology in which "[t]he virtual city application may provide the user with the ability to navigate within the virtual city block image. For example, the user may be given the ability to use a mouse (or the cursor keys on a keyboard) to move within the virtual city block image. This feature is particularly useful when the virtual city block image is at 180.degree. image or a 360.degree. image because the user may be given the ability to navigate the city block to a higher degree using the virtual city block image. The navigation may be accomplished by clicking on the virtual city block image and holding down either the left or right mouse button. This may alter the perspective and create the appearance of movement" (Paragraph 0071). Therefore, it is clear that by clicking a virtual city block image and holding down either the left or right mouse button alters the perspective of the viewer and creates the appearance of movement towards the city block image (adjacent store fronts for example). "The navigation may take place in a smooth and continuous manner, giving the user the

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impression of actual movement." (Paragraph 0071 and 0101). With regard to claim 23 and dependent claims 15-17 in section D, Ferreira teaches "For example, a user may navigate from one adjacent city block to another by selecting a horizon or any other suitable element of the display, such as icons ... upon selection of a storefront, the user may be directed to a virtual representation of the interior of the store in which the user may navigate and view actual items for sale as though he or she were in a real store (§ 0014-0015; § 0071-0075 and § 0101-0102, see figs. 4-5]. Ferreira's use of a mouse (or the cursor keys on a keyboard) by holding down either the left or right mouse button that gives the user the ability to navigate the city block and move within the virtual city block image is no different than the Appellant's use of Keyboard 22 to click on "GO LEFT 1 BLOCK" of button 41 of fig. 2 (see page 5 of Appellant's argument of the Appeal Brief. Thus, it is maintained that Ferreira meets the scope of the invention as currently claimed.


For the reasons above, the rejection should be affirmed.

Respectfully submitted,


Y. Barqadle
May 14, 2007

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Conferees



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